

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DATE FILED: 2/1/08

JUDGE SCHEINDLIN

In re

Dana Corporation, *et al.*,

Debtors.

07 Civ. 8160 (SAS)

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JOINT SCHEDULING ORDER

WHEREAS, on March 3, 2006, Dana Corporation (“Dana”) and 40 of its domestic direct and indirect subsidiaries, as debtors and debtors in possession in the above-captioned bankruptcy cases (collectively with Dana, the “Debtors”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS, (a) on September 21, 2006, the United States Environmental Protection Agency, National Oceanic and Atmospheric Administration of the Department of Commerce and the Department of the Interior acting through the Fish and Wildlife Service (collectively, the “Government”) filed two Proofs of Claim in the Bankruptcy Court, designated as Claim Numbers 13321 and 13796, and (b) on October 25, 2007, the Government filed an updated proof of claim with the Bankruptcy Court, designated as Claim Number 14958 (collectively, as they may be further amended, the “Claims”). The Claims assert liabilities with respect to seven “Superfund” locations, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675;

WHEREAS, on September 5, 2007, the Debtors filed a motion in the Bankruptcy Court to estimate the Government’s Claims on a final basis for purposes of allowance, treatment

and distributions in its chapter 11 cases, pursuant to section 502(c) of the Bankruptcy Code (the “Estimation Motion”);

WHEREAS, on September 7, 2007, the Debtors filed their Objection to the Government’s Claims in the Bankruptcy Court, which was supplemented on December 7, 2007 by a filing in this Court (collectively, as it may be further amended, the “Claims Objection”);

WHEREAS, on September 18, 2007, the Government filed an objection in the Bankruptcy Court to the Estimation Motion (the “Government Objection”) and a motion in this Court to withdraw the bankruptcy case reference as to the Estimation Motion and the Claims Objection (the “Withdrawal Motion”);

WHEREAS, on September 25, 2007, the Bankruptcy Court entered an order (the “Estimation Procedures Order”) granting the Estimation Motion and overruling the Government Objection;

WHEREAS, thereafter, the Parties have engaged in discovery activities relating to the estimation of the Claims;

WHEREAS, on November 20, 2007, this Court issued an Opinion and Order granting the Government’s Motion to Withdraw the Reference with respect to all proceedings relating to the Claims. See Opinion and Order at 27 (“I am withdrawing the reference to the bankruptcy court of all proceedings relating to the Government’s claims, including but not limited to the Claim Objection and the Estimation Motion.”);

WHEREAS counsel for the Debtors and the Government (collectively, the “Parties”) have reached an agreement in principle, subject to documentation and approvals, with regard to all of the “Superfund” locations identified in the Claims, except for the portions of the Claims relating to the site located in South Plainfield, New Jersey, generally referred to as the

Cornell-Dubilier Electronics, Inc. Superfund Site (the “CDE Site”), and the West Highway 6 & 281 Superfund Site in Hastings, Nebraska (the “Hastings Site”), and estimation proceedings relating to the settled sites are being held in abeyance in anticipation of completing such settlements;

WHEREAS, at a conference conducted on December 7, 2007, this Court set a date for the final hearing to consider the Claims Objection and to estimate the Claims relating to the CDE Site and the Hastings Site (the “Estimation Hearing”) to commence on August 18, 2008;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties, subject to the approval of the Court, that the following schedule will govern pre-hearing proceedings with respect to the Estimation Hearing:

1. The Parties are permitted to supplement the names of their proposed expert witnesses by January 11, 2008. No more than one additional expert may be designated by each Party for each site. No later than January 11, 2008, each Party will identify for each designated expert the site that such expert will testify about (i.e., either the Hastings Site or CDE Site or both).

2. The Parties have agreed to retain Michael D. Young, Esq. of JAMS to serve as a neutral third party mediator. If, for any reason, Mr. Young becomes unavailable to serve in this role, the Parties will promptly agree upon and designate a replacement neutral third party mediator and inform the Court of the identity of such replacement. As soon as practicable, and no later than January 31, 2008, the Parties and the mediator shall agree on the mediation process to be used to seek a resolution of the disputes pending before this Court in this action. The Parties shall share equally the costs and expenses of the mediator and otherwise shall bear their own costs with respect to any mediation activities.

3. The Parties shall use their best efforts to produce non-privileged documents responsive to all outstanding document requests no later than January 11, 2008.

4. The Parties shall continue to supplement their discovery responses in a timely rolling basis.

5. The Parties will complete Federal Rule 30(b)(6) depositions no later than January 31, 2008.

6. All written fact discovery (except for Requests for Admission) shall be served no later than January 25, 2008.

7. Fact depositions shall be completed no later than January 31, 2008. Each Party shall take no more than ten fact depositions per site (i.e., ten for the Hastings Site and ten for the CDE Site), including Federal Rule 30(b)(6) depositions; *provided that* all depositions of witnesses designated under a single Federal Rule 30(b)(6) notice to a single party shall count as one deposition.

8. The Parties shall serve copies of any expert reports no later than March 7, 2008.

9. The Parties shall serve any additional Requests for Admission no later than March 7, 2008. The Parties agree that the total of all Requests for Admission for each party shall be limited to no more than 100 requests, including sub-parts.

10. Rebuttal expert reports, if any, shall be served no later than March 21, 2008.

11. All expert depositions shall be completed no later than April 11, 2008.

12. The Parties shall respond to Requests for Admission served from and after the date hereof no later than April 11, 2008.

13. The close of discovery shall be April 11, 2008.

14. The Court shall conduct a status conference on April 11, 2008 at 4:30 p.m.,
Eastern Time.

15. Either Party may file any motion for determination of issues as a matter of law no later than April 25, 2008 (a "Legal Determination Motion"). Any such brief in support of such motion shall be no more than 35 pages.

16. Responses to any Legal Determination Motion shall be filed no later than May 23,
2008 (a "Response"). Any such Response shall be no more than 35 pages.

17. Replies to any Response shall be filed no later than June 6, 2008. Any such reply shall be no more than 15 pages.

18. The Parties shall exchange final witness lists and copies of exhibits no later than July 28, 2008.

19. The parties shall file pre-hearing memoranda and any affidavits/declarations no later than August 1, 2008.

20. The Parties shall file any motions *in limine* no later than August 1, 2008.

21. The Parties shall file and serve on each other any pre-hearing opposition memoranda, any supporting affidavits or declarations, no later than August 11, 2008.

22. The Parties shall submit a joint pre-hearing order consistent with the Court's individual rules and procedures, no later than August 13, 2008.

23. A final pre-hearing conference in this matter shall be conducted during the week before the hearing date, or as otherwise directed by the Court.

24. The Estimation Hearing shall be conducted commencing on August 18, 2008, for up to eight total days.

Dated: New York, New York

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By: _____

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ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION

SO ORDERED THIS 1 DAY OF JANUARY, 2008.

HONORABLE SHIRA A. SCHEINDLIN
UNITED STATES DISTRICT JUDGE

MICHAEL J. GARCIA
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Southern District of New York

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ATTORNEYS FOR THE GOVERNMENT

*NO further adjournment of
the brief filing
schedule will be
permitted*